IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 20303 of 2004

Between:

S.M. Ratna, W/o. J. Gantaiah, OCC: Housewife
Q.No. 26 Police Officers Quarters, Santhi Nagar, Hyderabad.

... PETITIONER

AND

1 Nellore Municipality, Rep by its Chairperson
2 Commissioner, Nellore Municipality

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ in the nature of Writ of Mandamus or any other appropriate writ direction, order or orders declaring the action of respondents in laying cement road in the ABCD private lane and opening it to public thoroughfare as wholly arbitrary illegal without jurisdiction and void.

Counsel for the Petitioner: MR.M.P.CHANDRAMOULI

Counsel for the Respondents: MR.DANTU.SRINIVAS

The Court, at the admission stage, made the following:

ORDER:

The plan filed along with the writ petition clearly shows that land of 3 feet shown as ABCD is connecting two roads on either side of the land belonging to one Smt. Kondisetti Vijayalakshmi. The petitioner claims that it is a private land which the petitioner and her neighbour alone can use it, the respondents cannot lay cement road in the said land, which will be open to the public to use it as a main road causing obstruction. If the respondents want to make thoroughfare, they have to acquire the property and can lay the road. With the above allegations, the present writ petition has been filed.

2. The complaints and averments made in the affidavit show that the lane was used as footpath by the plot owners of either side and when it is connecting both the roads, petitioner cannot claim exclusive rights over the said property. Since it is the responsibility of the Municipal Corporation to maintain hygienic conditions and cleanliness, it can always cover the pavements or by-lanes with concrete and cement. If petitioner has any exclusive rights over the said property, she is at liberty to approach the Civil Court and obtain necessary relief.

The writ petition is accordingly dismissed. No costs.

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A. **GOPAL REDDY, J**

November 5, 2004

MRR

To:

1 The Chairperson, Nellore Municipality.

2 Commissioner, Nellore Municipality .

3 Two C.D. Copies.